

# SENATE BILL REPORT

## SB 6184

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As Reported By Senate Committee On:  
Judiciary, January 23, 2008

**Title:** An act relating to most serious offenses.

**Brief Description:** Addressing most serious offenses.

**Sponsors:** Senators Benton, Eide, Weinstein, McCaslin, Hargrove, Regala, Hatfield, Carrell, Tom, Franklin, Zarelli, Kline, Haugen, Keiser, Fairley, Hobbs, Marr, Kastama, Berkey, Delvin, Brandland, Spanel, Murray, Prentice, Holmquist, Hewitt, Rasmussen, Jacobsen, Sheldon, Oemig, Morton, Pflug, Roach, Pridemore, McAuliffe, Rockefeller, Parlette, Kauffman, Shin, Kohl-Welles, Stevens, Kilmer, Swecker, Honeyford and Schoesler.

**Brief History:**

**Committee Activity:** Judiciary: 1/15/08, 1/23/08 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6184 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

**Staff:** Lidia Mori (786-7755)

**Background:** An offender is considered a "persistent offender" when the offender is convicted of any felony that is considered a most serious offense, and that person has previously been convicted, on at least two separate occasions, of felonies that would be considered most serious offenses. This law is referred to as the three-strikes law. A persistent offender must be sentenced to a term of total confinement for life without the possibility of release.

Roy Wayne Russell was sentenced to life without the possibility of parole as a persistent offender by a Clark County Superior Court in 1998. He successfully challenged his sentence because the trial court erred in counting a prior out-of-state conviction for kidnapping as one of the "strikes." Mr. Russell's out-of-state conviction for kidnapping is comparable to unlawful imprisonment under Washington law. Unlawful imprisonment is not considered a most serious offense. Therefore, his criminal history did not contain three strikes.

Washington law states that "sexual motivation" is one of the purposes for which the defendant committed the crime.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill (Recommended Substitute):** The definition of "most serious offense" is amended to include any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more. The defendant's out-of-state conviction must meet the required elements of a felony under Washington law, and the conduct must meet the statutory test in Washington for sexual motivation.

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute):** It is clarified that the defendant's conviction must meet the required elements of a felony under Washington law, and the conduct must meet the statutory test in Washington for sexual motivation.

**Appropriation:** None.

**Fiscal Note:** Requested on January 12, 2008.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill closes a loophole in the three-strikes law. Serious offenders, like Roy Wayne Russell, should not be allowed to slip through the cracks simply because their offense didn't exactly match a Washington law. The offenses that this bill will pick up are comparable to what Washington puts on its strike list. The requirement of a sentence of ten years shows the offense wasn't taken lightly in the state where it was committed and the requirement of a finding of sexual motivation avoids the problem of it applying to, for example, a career auto thief. This bill increases the safety of Washington citizens and holds offenders accountable. It's appropriate to hold these offenders accountable for actions that happened elsewhere.

**Persons Testifying:** PRO: Senator Don Benton, prime sponsor; Sylvia Johnson; Jean Soliz Conklin, Sentencing Guidelines Commission; Tom McBride, Washington Association of Prosecuting Attorneys; Evelyn Larsen, Washington Coalition of Sexual Assault Programs.